IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9382 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MAKWANA LAXMIBEN DEVJIBHAI

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

1. Special Civil Application No. 9382 of 1999

MS SADHANA SAGAR for Petitioner No. 1

RULE SERVED for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 29/03/2004

ORAL JUDGEMENT

The grievance of the petitioner is that though she has been working on part time basis since 5th January, 1994, her service has not been regularized.

1.1. The petitioner was appointed as part time sweeper with effect from 5th January, 1994. On her appointment, she was required to work for one and half hour in a day. She was being paid salary of Rs.342=50 paise. It is her say that she often requested the respondents to regularize her service and to appoint her on a permanent basis on permanent post. According to her, the post of sweeper was a permanent post. In the matter of regularization, the Government of Gujarat has issued Circular which has been adopted by G.E.B.

2. As against that, no affidavit has been filed by the other side and the averments made in the petition remain uncontroverted.

3. The question regarding regularization of service on temporary or part time employee who has put in number of years of service has been considered and decided by this Court on 17th February, 2004 in Special Civil Application No. 10518 of 1998, which was filed against the present respondent - Board. In view of the said judgment, the present petition is required to be allowed since the issue involved in it stands squarely covered by the decision in the aforesaid matters and it is hereby ordered to be allowed with the following directions :-

The respondents are, therefore, now required to be directed that irrespective of the Circular of 21st August, 1995, they shall consider the case of petitioner for appointment on permanent post in Class-IV and if the permanent posts are found vacant, the petitioner shall be appointed on the same in accordance with her claim, in the matter of seniority and the Regulations and if otherwise, she is not ineligible. Appointment should not be denied on the ground of overage or on the ground that it may amount to giving a back-door entry. This exercise to be carried out as early as possible but in any case not later than 30th May, 2004. If need be, the petitioner can make appropriate representation, which will be considered in light of this judgment and in particular, the direction given therein.

The petition is, therefore, partly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

[AKSHAY H. MEHTA, J.]

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